THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NOs.1573, 1574 and 1575 OF 2006

Between:

Najeebunnisa Begum and others. … petitioners.

And

State of A.P., and others. …. Respondents.

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WRIT PETITION NOs.1573, 1574 and 1575 OF 2006

COMMON ORDER:

All these writ petitions are filed by the same petitioners for the similar relief to issue a writ of mandamus declaring the action of the respondents 1 and 2 in granting no objection certificates and the action of the respondents 3 to 6 in granting clearance under Urban Land Ceiling and permission for construction and also registration of sale in respect of the lands in survey No.129/49/D2, 129/49/D3 and 129/49/56 situated at road No.12, Banjara Hills, Hyderabad as illegal and also consequently to direct the respondents 1 to 7 to rectify the records and also to take action for cancellation of no objection certificate, clearance under Urban Land Ceiling and the permission for constructions.

The said land originally belongs to the grandfather of the first petitioner and the same was assigned in favour of Mir Mohammed Ali. After the death of Smt.Dilawarunnisa Begum daughter of Ali Nawaz Jung, Ali Nawaz Jung made a wakf deed which provides for creation of the trust for the benefit of two sons of Smt.Dilawarunnissa Begum, i.e., Qaiser Mohiuddin and Nazir Mohiuddin. Three trustees were also appointed to manage the above said property. But the said trust did not come into existence since the trustees have not accepted the trust. It is stated that the beneficiaries were not vested with the trust property by way of conveyance in favour of the trustees and therefore, the said land did not attain the status of trust property.

It is the further case of the petitionerd that Qaisar Mohiuddin sold the said properties to Kubra Fatima and the said Kubra Fatima sold the said land in plot No.D2 to Pasha Begum. Kubra Fatima also sold the land in plot no.56 to Dr.Jacob Kuruvilla and also to A.Narsimha Rao and five others. It is stated that all the alienations starting from Qaiser Mohiuddin are illegal since it did not derive any title from the so called trust. It is stated that from the correspondence between the State Government and the District Collector, it discloses that the said property to an extent of Ac.12.30 cents and an extent of Ac.3.20 gts., in plot No.55 was declared as evacuee property and the remaining land in plot Nos.56, D2 and D3 belongs to heirs of Ali Nawaz Jung, who died in 1948. He has two sons and two daughters namely Mir Farkund Ali, Mir Mohammed Ali, Dilawarunnisa Begum and Mohammed-unnissa Begum. Out of these four children Mir Mohammed Ali died issue less. Smt.Dilawarunnisa Begum has two sons, Qaiser Mohiuddin and Nazar Mohiuddin and both of them died issueless. Smt.Mohammed-unnissa Begum, while she was alive gifted her share to

the petitioners. It is stated that the children of Mir Mohammed Ali and Mohammedunnissa Begum who are the surviving legal heirs obtained decree in O.S.no.400 of 1983 on the file of the I Additional Judge, City Civil Court, Hyderabad and the said Mohammed-unnissa Begum gifted her share in favour of the petitioners. Thus, the petitioners are claiming as owners of the land in question measuring Ac.9.10 guntas in survey No.s129/49/D2, 129/49/D3 and 129/49/56.

It is the case of the petitioners that their case is pending before the government for regularizing their title over the property and in the meanwhile several transfers have been taken place in respect of the said property and several sale deeds have been executed and some of the persons filed declarations before the Urban Land Ceiling and obtained permissions and also obtained permissions for constructing houses. It is stated that all the clearances granted by the Urban land Ceiling authorities and the registration of sale deeds transacted between the several parties have to be declared as illegal and the revenue records have to be rectified regularizing the right of the petitioners.

I am of the opinion that several disputed questions of fact cannot be decided by this Court under the extraordinary jurisdiction under Article 226 of the Constitution of India without impleading all the persons concerned, who have purchased the lands, obtained Urban Land Ceiling clearances and permissions and constructed their houses. Therefore, I am of the opinion that the petitioners are not entitled to make a roving and fishing enquiry and on the disputed questions of fact no writ can be entertained by this Court. Accordingly, the writ petitions are dismissed.

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03.03.2006

mdaa.